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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,642	04/15/2004	Valentin Leiro Paz	001058.00017	7680
27557	7590	12/30/2005		
BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037			EXAMINER BASICHAS, ALFRED	
			ART UNIT	PAPER NUMBER
			3749	
DATE MAILED: 12/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Tals

Office Action Summary	Application No.	Applicant(s)	
	10/824,642	PAZ, VALENTIN LEIRO	
	Examiner	Art Unit	
	Alfred Basichas	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (3,834,370) in view of Stephen (3,688,758). Nelson discloses a tray 90 supporting combustible material, a grill 102,103 disposed above and connected by a lifting member 95 including a bar 30,32 slidably received in an outer cylinder 33 including a gear (see at least fig. 2) connected to a lever 36. Nelson further discloses the grill horizontally fitting between a longitudinal support in angular guides disposed substantially perpendicular to the support (see at least figs. 1,16,20). Nelson does not specifically recite refractory bricks placed on the combustion tray. Stephen teaches a barbecue grill including a tray having a plurality of refractory bricks to provide for a more even heat distribution so as to provide for better cooking (see at least col. 6, lines 21-52). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the refractory bricks of Stephen into the invention disclosed by Nelson, so as to enhance cooking.

5. Claims 1, 3, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ceravolo (5,099,821) in view of Stephen (3,688,758). Ceravolo discloses a tray 4 supporting combustible material including an ashtray 18,32 and leg members 23,24,33, a grill 3 disposed above and connected by a lifting member 8,9,10,11 including a bar 8 slidably received in an outer cylinder 12. Ceravolo further discloses the grill horizontally fitting between a longitudinal support in angular guides disposed substantially perpendicular to the support (see at least figs. 1,3,11,12,etc.). Ceravolo does not

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specifically recite refractory bricks placed on the combustion tray. Stephen teaches a barbecue grill including a tray having a plurality of refractory bricks to provide for a more even heat distribution so as to provide for better cooking (see at least col. 6, lines 21-52). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the refractory bricks of Stephen into the invention disclosed by Ceravolo, so as to enhance cooking.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ceravolo (5,099,821) in view of Stephen (3,688,758), which combination teaches substantially all of the claimed limitations. Nevertheless, the combination fails to specifically recite an ashtray with handle and adjustable leg members. Official Notice is given that an ashtray with handle and adjustable leg members are old and well known in the art. Such an arrangement has the clear and obvious benefit of providing for cleaning and height adjustment. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate these elements into the invention disclosed by the above combination, so as to provide for cleaning and height adjustment.

Prior Art

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references disclose barbecue grills with many, if not all, of the claimed components. Nevertheless, in order to avoid overburdening the applicant with redundant rejections, these references were not applied.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basichas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571 272 4828. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

December 20, 2005


Alfred Basichas
Primary Examiner